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SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA-2013-0015]

Privacy Act of 1974

Proposed New Routine Uses and System of Records Alterations

AGENCY: Social Security Administration (SSA)

ACTION: Proposed New Routine Uses and System of Records Alterations

SUMMARY: In accordance with the Privacy Act (5 U.S.C. § 552a(e)(4) and (e)(11)), we are issuing public notice of our intent to modify the system of records entitled, *Master Representative Payee File, 60-0222* (hereinafter referred to as the *Representative Payee SOR*). We propose modifying the categories of records, record source categories, and adding two new routine uses to the Representative Payee SOR. We propose adding criminal history information and representative payee annual accounting reports to the categories of records. We propose adding third parties, contractors, other Federal agencies, and SSA's Prisoner Update Processing System of Records, 60-0269 as new record source categories. The first new routine use will allow us to disclose representative payee (RP) and RP applicant personally identifiable information (PII) to conduct criminal background checks. The second routine use will allow us to disclose RP and RP applicant PII to Federal, State, and local law enforcement agencies and private security contractors to protect the safety of SSA employees and customers or assist in the investigation or prosecution of activities that disrupt the operation of SSA facilities. We discuss the revisions to the categories of records in the system, the record source categories, and the

routine uses in detail in the Supplementary Information section below. We invite public comment on this proposal.

DATES: We filed a report of the system of records alterations and new routine uses with the Chairman of the Senate Committee on Homeland Security and Governmental Affairs, the Chairman of the House Committee on Oversight and Government Reform, and the Director, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on April 16, 2013. The routine uses will become effective on May 25, 2013 unless we receive comments before that date that require further consideration.

ADDRESSES: Interested persons may comment on this publication by writing to the Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, Social Security Administration, 617 Altmeyer Building, 6401 Security Boulevard, Baltimore, Maryland 21235-6401 or through the Federal e-Rulemaking Portal at <http://www.regulations.gov>. All comments we receive will be available for public inspection at the above address and will be posted to <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Anthony Tookes, Government Information Specialist, Privacy Implementation Division, Office of Privacy and Disclosure, Office of the General Counsel, Social Security Administration, 617 Altmeyer Building, 6401 Security Boulevard, Baltimore, Maryland 21235-6401, (410) 966-0097, e-mail: anthony.tookes@ssa.gov.

SUPPLEMENTARY INFORMATION:**I. Background and Purpose of the Proposed Changes to the Categories of Records, Record Source Categories, and New Routine Uses****General Background**

The Social Security Administration (SSA) is establishing new data collection procedures to strengthen its RP selection process. An RP is an individual or organization appointed by SSA to receive Social Security or Supplemental Security Income benefits, or both, for someone who cannot manage or direct the management of their money. The RP's primary responsibility is to use the beneficiary's benefits to pay for the beneficiary's current and foreseeable needs.

We maintain information that we collect from RP applicants in the Master Representative Payee File system of records (hereinafter, we refer to it as the RP SOR). The RP SOR describes how we may disclose the RP information contained in the system.

The purpose of the additional data collection is to assist us in identifying RPs and RP applicants with serious criminal convictions and ensure that we adhere to a consistent process in determining their suitability. The Social Security Act prohibits certain groups of persons from serving as representative payees due to their criminal history. For example, the Act prohibits from serving as representative payees persons convicted of Social Security fraud and persons who are fleeing to avoid prosecution, or custody or confinement after conviction, of a felony, or an attempt to commit a felony. In other cases, the Act gives us discretion to determine whether it would be appropriate to appoint someone as a representative payee despite his or her criminal history.

During the initial RP interview, we verify applicants' information against our prisoner and fugitive felon records. We verify allegations of criminal history data against third party sources and maintain the results in the RP SOR. If the applicant has an existing record with us, such as a Master Beneficiary Record (MBR), Supplemental Security Record (SSR), or Prisoner Update Processing System (PUPS) record, we review our records to determine if that information has any bearing on the RP applicant's suitability. We also gather information about the nature of any self-reported criminal convictions; fugitive felony history or periods of incarceration recorded on the PUPS record; the beginning and ending dates of confinement; types of conviction (e.g., felony or misdemeanor); type of crime (e.g., robbery or forgery); and any pending civil or criminal charges. Applicants can provide details about their incarceration or unsatisfied felony warrant. If criminal information is incomplete, applicants must produce documentation that provides this information.

The first new routine use in the RP SOR will permit us to disclose RP and RP applicant PII to third parties, contractors, or other Federal agencies that provide PII verification and other data to support our efforts to conduct criminal background checks.

The second routine use is a general routine use recently added to other SSA systems of records. It will enable us to disclose information to Federal, State, and local law enforcement agencies and private security contractors to enable them to protect our employees and customers. Furthermore, it enables us to assist in prosecutions with respect to activities that affect such safety and security, or activities that disrupt the operation of our facilities.

Additionally, we propose some minor alterations to the system of records to more accurately reflect the information we use and maintain in this system. This includes expanding the categories of records and the record source categories.

II. Proposed New Routine Uses

A. Representative Payee Background Checks

The Privacy Act requires that agencies publish in the *Federal Register* notification of "each routine use of the records contained in the system, including the categories of users and the purpose of such use." 5 U.S.C. § 552a(e)(4)(D). This new routine use, numbered 19, for the Representative Payee SOR will allow disclosure of RP and RP applicant PII to third parties, contractors, or other Federal agencies, to conduct criminal background checks. The routine use reads as follows:

To third parties, contractors, or other Federal agencies, as necessary, to conduct criminal background checks and to obtain criminal history information on representative payees and representative payee applicants.

B. To Federal, State, and Local Law Enforcement to Protect the Safety of SSA Employees and Customers

This new routine use, numbered 20, will allow disclosure of RP and RP applicant PII to law enforcement agencies. The routine use reads as follows:

To Federal, State, and local law enforcement agencies and private security contractors as appropriate, if necessary:

(a) To enable them to protect the safety of SSA employees and customers, the security of the SSA workplace and the operation of SSA facilities, or

(b) To assist investigations or prosecutions with respect to activities that affect such safety and security, or activities that disrupt the operation of SSA facilities.

III. Compatibility of Routine Uses

We may disclose information when the purpose is compatible with the purpose for which we collected the information and when re-disclosure is supported by published routine uses (20 CFR § 401.150).

Third parties, contractors, and other Federal agencies, as necessary, will use RP PII to conduct background checks. We will use the information derived from the background checks in our suitability evaluation to determine if an RP or RP applicant has committed a serious crime.

Disclosure of PII to Federal, State, and local law enforcement agencies and private security contractors to enable them to protect SSA employees and customers is compatible with our health and safety policies.

For these reasons, we find that the aforementioned routine uses meet the statutory and regulatory compatibility requirements.

IV. Effect of the Routine Use on the Rights of Individuals

We will adhere to the provisions of the Privacy Act and all other applicable Federal statutes that govern our use and disclosure of the information we obtain from third parties when we evaluate the suitability of RP applicants. We will only perform background checks on RP applicants who we advise via the RP application form that we will collect, verify, maintain,

and use such information only as provided for by Federal law. Therefore, we do not anticipate that the routine uses will have any unwarranted adverse effect on the privacy or other rights of individuals.

Kirsten J. Moncada

Executive Director

Social Security Administration
Notice of System of Records Alterations and Proposed New Routine Uses
Required by the Privacy Act of 1974

System Number: 60-0222

System name: Master Representative Payee File, Social Security Administration (SSA)

Security Classification: None.

System Location: SSA, National Computer Center, 6201 Security Boulevard, Baltimore, Maryland 21235. The system database is available by direct electronic access by Social Security field offices (FO). FO addresses and telephone numbers can be found in local telephone directories under "Social Security Administration" (SSA), or by accessing <http://www.ssa.gov/regions/regional.html>.

Categories of individuals covered by the system:

This system maintains information about all payees and payee applicants, including persons whose certifications as representative payees have been revoked or terminated on or after January 1, 1991; persons who have been convicted of a violation of sections 208, 811, and 1632 of the Social Security Act, as amended, persons convicted under other statutes in connection with services as a representative payee, and others whose certification as a representative payee SSA has revoked due to misuse of funds paid under Title II and Title XVI

of the Social Security Act; persons who are acting or have acted as representative payees; representative payee applicants who were not selected to serve as representative payees; representative payee applicants who have been convicted of an offense resulting in more than one (1) year imprisonment; payees and payee applicants who have an outstanding felony warrant; organizational payees who have been authorized to collect a fee for their service; and beneficiaries/applicants who are being served by representative payees.

Categories of records in the system:

Records in this system consist of:

1. Names and Social Security numbers (SSNs) (or employer identification numbers (EINs)) of representative payees whose certifications for payment of benefits as representative payees have been revoked or terminated on or after January 1, 1991, because of misuse of benefits under Title II or Title XVI of the Social Security Act;
2. Names and SSNs (or EINs) of all persons convicted of violations of sections 208, 811, and 1632 of the Social Security Act, as amended;
3. Names, addresses, and SSNs (or EINs) of persons convicted of violations of statutes other than sections 208 and 1632 of the Social Security Act, when such violations were committed in connection with the individual's service as a Social Security representative payee;
4. Names, addresses, SSNs, and information about representative payee or representative payee applicant self-reported crimes, outstanding felony warrants, or imprisonment for a period exceeding one (1) year (an indicator will be used in the system to identify persons identified as having an outstanding felony warrant);
5. Names, addresses, and SSNs (or EINs) of representative payees who are receiving benefit payments pursuant to section 205(j) or section 1631(a)(2) of the Social Security Act;

6. Names, addresses, and SSNs of persons for whom representative payees are reported to be providing representative payee services under section 205(j) or section 1631(a)(2) of the Social Security Act;

7. Names, addresses, and SSNs of representative payee applicants who were not selected as representative payees;

8. Names, addresses, and SSNs of persons who were terminated as representative payees for reasons other than misuse of benefits paid to them on behalf of beneficiaries/recipients;

9. Information concerning the representative payee's relationship to the beneficiaries/recipients they serve;

10. Names, addresses, EINs, and qualifying information of organizations authorized to charge a fee for providing representative payee services;

11. Codes which indicate the relationship (other than familial) between the beneficiaries/recipients and the persons who have custody of the beneficiaries/recipients;

12. Dates and reasons for payee terminations (e.g., performance not acceptable, death of payee, beneficiary in direct payment, etc.) and revocations;

13. Codes indicating whether representative payee applicants were selected or not selected;

14. Dates and reasons representative payee applicants were not selected to serve as payees, dates and reasons for changes of payees (e.g., beneficiary in direct payment, a criminal history etc.);

15. Amount of benefits misused;

16. Identification number assigned to the claim on which the misuse occurred;

17. Date of the determination of misuse;

18. Information about a felony conviction reported by the representative payee;

19. Criminal history information obtained from SSA databases, third parties, contractors, and other Federal agencies; and,

20. Annual payee accounting reports.

Authority for maintenance of the system:

Sections 205(a), 205(j), 208, 811, 1631(a), and 1632 of the Social Security Act, as amended, and the Social Security Protection Act of 2004 (Pub. L. 108-203).

Purpose(s):

Information maintained in this system will assist SSA in the selection process of a representative payee by enabling Social Security field offices to better screen applicants to determine their suitability to become representative payees. SSA also will use the data for management information and workload projection purposes. Additionally, we will use the information to prepare annual reports to Congress on representative payee activities.

Routine uses of records covered by the system, including categories of users and the purposes of such uses:

Disclosure may be made for routine uses as indicated below. However, disclosure of any information defined as “return or return information” under 26 U.S.C. § 6103 of the Internal Revenue Code will not be disclosed unless authorized by a statute, the Internal Revenue Service (IRS), or IRS regulations.

1. To the Department of Justice (DOJ), a court or other tribunal, or another party before such tribunal, when:

(a) The Social Security Administration (SSA), or any component thereof; or

(b) Any SSA employee in his or her official capacity; or

(c) Any SSA employee in his or her individual capacity where DOJ (or SSA, where it is authorized to do so) has agreed to represent the employee; or

(d) The United States or any agency thereof where SSA determines that the litigation is likely to affect SSA or any of its components, is a party to litigation or has an interest in such litigation, and SSA determines that the use of such records by DOJ, a court or other tribunal, or another party before the tribunal, is relevant and necessary to the litigation, provided, however, that in each case, SSA determines that such disclosure is compatible with the purpose for which the records were collected.

2. To a congressional office, in response to an inquiry from that office made at the request of the subject of the records.

3. To the General Services Administration and the National Archives and Records Administration (NARA) under 44 U.S.C. §§ 2904 and 2906, as amended by the NARA Act of 1984, information that is not restricted from disclosure by Federal law for the use of those agencies in conducting records management studies.

4. To the Department of Veterans Affairs (DVA), Regional Office, Manila, Philippines, for the administration of the Social Security Act in the Philippines and other parts of the Asia-Pacific region through services and facilities of that agency.

5. To the Department of State for administration of the Social Security Act in foreign countries through services and facilities of that agency.

6. To the American Institute, a private corporation under contract to the Department of State, for administering the Social Security Act in Taiwan through facilities and services of that agency.

7. To DOJ for:

- (a) Investigating and prosecuting violations of the Social Security Act to which criminal penalties attach,
- (b) Representing the Commissioner of Social Security, and,
- (c) Investigating issues of fraud or violations of civil rights by officers or employees of the SSA.

8. To the Office of the President, for responding to an inquiry received from the subject of the records or a third party acting on behalf of the subject.

9. To DVA for the shared administration of DVA's and the SSA's representative payee programs.

10. To contractors and other Federal Agencies, as necessary, for the purpose of assisting the SSA in the efficient administration of its programs. We will disclose information under this routine use only in situations in which SSA may enter into a contractual or similar agreement to obtain assistance in accomplishing an SSA function relating to this system of records.

11. To a third party such as a physician, social worker, or community service worker, who has, or is expected to have, information, which is needed to evaluate one or both of the following:

- (a) The claimant's capability to manage or direct the management of his or her benefits.
- (b) Any case in which disclosure aids investigation of suspected misuse of benefits, abuse or fraud, or is necessary for program integrity, or quality appraisal activities.

12. To a third party, where necessary, information pertaining to the identity of a payee or payee applicant, the fact of the person's application for or service as a payee, and, as necessary, the identity of the beneficiary, to obtain information on employment, sources of income, criminal

justice records, stability of residence, and other information relating to the qualifications and suitability of representative payees or representative payee applicants to serve as representative payees, or their use of the benefits paid to them under section 205(j) or section 1631(a) of the Social Security Act.

13. To a claimant or other individual authorized to act on his or her behalf information concerning the status of his or her representative payee or the status of the application of a person applying to be his or her representative payee, and information pertaining to the address of a representative payee applicant or a selected representative payee when this information is needed to pursue a claim for recovery of misapplied or misused benefits.

14. To the Railroad Retirement Board (RRB) for the administration of RRB's representative payment program.

15. To student volunteers, persons working under a personal services contract, and other workers who technically do not have the status of Federal employees, when they are performing work for SSA, as authorized by law, and they need access to personally identifiable information in SSA records in order to perform their assigned agency functions.

16. To the Office of Personnel Management (OPM) for the administration of OPM's representative payee programs.

17. To the Secretary of Health and Human Services or to any State, any record or information requested in writing by the Secretary for the purpose of administering any program administered by the Secretary, if records or information of such type were so disclosed under applicable rules, regulations and procedures in effect before the date of enactment of the Social Security Independence and Program Improvements Act of 1994.

18. To appropriate Federal, State, and local agencies, entities, and persons when:

(a) we suspect or confirm a compromise of security or confidentiality of information;

(b) we determine that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, risk of identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and

(c) we determine that disclosing the information to such agencies, entities, and persons will assist us in our efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

19. To third parties, contractors, or other Federal Agencies, as necessary, to conduct criminal background checks and to obtain criminal history information on representative payees and representative payee applicants.

20. To Federal, State, and local law enforcement agencies and private security contractors as appropriate, if necessary:

(a) To enable them to protect the safety of SSA employees and customers, the security of the SSA workplace and the operation of SSA facilities, or

(b) To assist investigations or prosecutions with respect to activities that affect such safety and security, or activities that disrupt the operation of SSA facilities.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: We maintain records in this system in paper form and system generated forms and in electronic files.

Retrievability: We will retrieve records by both SSN and name. If we deny an application because the applicant submitted fraudulent evidence, or if we are verifying evidence we suspect to be fraudulent, we will retrieve records by the applicant's name plus month and year of birth, or by the applicant's name plus the eleven-digit reference number of the disallowed application.

Safeguards: We have established safeguards for automated records in accordance with our Information Systems Security Handbook. These safeguards include maintaining the magnetic tapes and discs within a secured enclosure attended by security guards. Anyone entering or leaving this enclosure must have a special badge we issue only to authorized personnel. For computerized records, we or our contractors, including organizations administering our programs under contractual agreements, transmit information electronically between Central Office and field office locations. Safeguards include a lock/unlock password system, exclusive use of leased telephone lines, a terminal-oriented transaction matrix, and an audit trail. Only authorized personnel who have a need for the records in the performance of their official duties may access paper files.

We annually provide to all our employees and contractors appropriate security guidance and training that include reminders about the need to protect PII and the criminal penalties that apply to unauthorized access to, or disclosure of, PII. See 5 U.S.C. § 552a(i)(1). Furthermore, employees and contractors with access to databases maintaining PII must sign a sanction document annually, acknowledging their accountability for inappropriately accessing or disclosing such information.

Retention and disposal: We retain and destroy this information in accordance with the National Archives and Records Administration approved records schedules N1-47-09-04, Master Beneficiary Record, and N1-47-09-5, Supplemental Security Income Record. We retain most paper forms only until we film and verify them for accuracy. We then shred the paper records. We retain electronic and updated microfilm and microfiche records in accordance with the approved records schedules. We update all tape, discs, microfilm, and microfiche files periodically. We erase out-of-date magnetic tapes and discs and we shred out-of-date microfiches.

System manager(s) and address: Associate Commissioner, Office of Income Security Programs, Social Security Administration, Room 252 Altmeyer Building, 6401 Security Boulevard, Baltimore, Maryland 21235.

Notification procedures: Persons can determine if this system contains a record about them by writing to the system manager at the above address and providing their name, SSN, or other information that may be in this system of records that will identify them. Persons requesting notification by mail must include a notarized statement to us to verify their identity or must certify in the request that they are the person they claim to be and that they understand that the knowing and willful request for, or acquisition of, a record pertaining to another person under false pretenses is a criminal offense.

Persons requesting notification of records in person must provide their name, SSN, or other information that may be in this system of records that will identify them, as well as provide an identity document, preferably with a photograph, such as a driver's license. Persons lacking identification documents sufficient to establish their identity must certify in writing that they are the person they claim to be and that they understand that the knowing and willful request for, or acquisition of, a record pertaining to another person under false pretenses is a criminal offense.

Persons requesting notification by telephone must verify their identity by providing identifying information that parallels the information in the record about which notification is sought. If we determine that the identifying information the person provides by telephone is insufficient, we will require the person to submit a request in writing or in person. If a person requests information by telephone on behalf of another person, the subject person must be on the telephone with the requesting person and with us in the same phone call. We will establish the subject person's identity (his or her name, SSN, address, date of birth, and place of birth, along with one other piece of information such as mother's maiden name), and ask for his or her consent to provide information to the requesting person. These procedures are in accordance with our regulations at 20 CFR §§ 401.40 and 401.45.

Record access procedures: Same as notification procedures. Persons must also reasonably specify the record contents they are seeking. These procedures are in accordance with our regulations at 20 CFR § 401.40(c).

Contesting record procedures: Same as Notification procedures. Requester should also reasonably identify the record, specify the information they are contesting and the corrective action sought, and the reasons for the correction, with supporting justification showing how the record is incomplete, untimely, inaccurate, or irrelevant. These procedures are in accordance with our regulations at 20 CFR § 401.65(a).

Record source categories: Information in this system is obtained from representative payee applicants and representative payees; third parties, contractors, and other Federal agencies; the SSA Office of Inspector General; and other SSA systems of records such as the Claims Folder System, 60-0089, Master Beneficiary Record, 60-0090, Supplemental Security Income Record and Special Veterans Benefits, 60-0103, Master Files of SSN Holders and SSN Applications, 60-0058, Recovery of Overpayments, Accounting and Reporting, 60-0094, and Prisoner Update Processing System, 60-0269.

Systems exempted from certain provisions of the Privacy Act:

None.